



**From:** "Randy Alligood" <ralligood@broadandcassel.com>  
**To:** memims@comcast.net  
**Cc:** "Kristi Sullivan" <ksullivan@broadandcassel.com>, "Randy Alligood" <ralligood@broadandcassel.com>  
**Subject:** Blackline Attachment - Master Agreement - Rosemont at Scyene  
**Date:** Mon, 3 Jan 2005 19:21:11 +0000

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Here is a cumulative blackline of the Master Agreement for Scyene with the address for Bright III inserted. We s  
phone and fax numbers for Bright III. Please let us know if you have any other comments.

Tracy Suarez  
Secretary to Randal M. Alligood, P.A.  
and John P. Grygiel  
Broad and Cassel  
390 N. Orange Ave., Suite 1100  
Orlando, FL 32801  
(407) 481-5235  
tsuarez@broadandcassel.com

"MMS <broadandcassel.com>" made the following  
annotations on 01/03/05 14:21:06

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RETURN THE ORIGINAL MESSAGE TO THE SENDER. THANK YOU.  
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**Attachment 1:** ORL1-626007-vRTF-Master Agreement - Rosemont at Scyene.DOC (application/msword)

[ [Back](#) ]

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GOVERNMENT  
EXHIBIT  
2955  
3:07-CR-0289-M

00299



**ROSEMONT AT SCYENE  
MASTER AGREEMENT**

THIS AGREEMENT (the "Agreement"), dated as of                     , ~~2004, 200~~200, is entered into by and among **SOUTHWEST HOUSING DEVELOPMENT COMPANY, INC.**, a Texas corporation ("SHDC"), **TX SCYENE DEVELOPMENT, L.L.C.**, a Texas limited liability company ("TX-GP" or "General Partner"), **HOUSING SERVICES INCORPORATED**, a Texas non-profit corporation ("Non Profit Owner"), **TX SCYENE HOUSING, L.P.**, a Texas limited partnership (the "Partnership"), ~~the Housing Authority of the City of Dallas, Texas ("DHA") and Bright 3 Community Housing Development Organization~~**THE HOUSING AUTHORITY OF THE CITY OF DALLAS, TEXAS ("DHA") and BRIGHT III COMMUNITY HOUSING DEVELOPMENT ORGANIZATION** ("Bright III").

**RECITALS**

A. The Partnership contemplates constructing a ~~[ ]~~250-unit multifamily rental residential development for families to be known as Rosemont at Scyene located in Dallas, Texas (the "Project").

B. The Partnership currently consists of TX-GP as the general partner, ~~owning 1% of the partnership interests, and Brian Potashnik and MMA Special Limited Partner, Inc. as the initial limited partner, owning 99% of the partnership interests.~~ At the closing on the Financing (as defined below), it is anticipated that (i) ~~Brian Potashnik~~MMA Special Limited Partner, Inc. will withdraw as the ~~initial limited partner~~, (ii) TX Scyene Development SLP, L.L.C., a Texas limited liability company (an affiliate of Mr. Potashnik) will enter the Partnership as a Class B Special Limited Partner ("SLP-B"), (iii) an equity investor will enter the Partnership as the investor limited partner (the "Investor"), (iv) the interest of the General Partner will be reduced ~~to .01% as customary under the Financing~~ and (v) Bright III will be admitted as a Class C Special Limited Partner ("SLP-C"). Brian Potashnik is the sole owner of all of the issued and outstanding membership interests in TX-GP (the "Units").

C. Financing for acquisition and construction of the Project is expected to be provided by (i) a loan (the "Loan") from an issuer of tax exempt bonds ("Issuer") to the Partnership, funded with the proceeds of private activity tax exempt bonds (the "Bonds"); (ii) certain equity proceeds (the "Equity") from the Investor pursuant to an Amended and Restated Agreement of Limited Partnership (the "Partnership Agreement") by and among the General Partner, the Investor, the SLP-B, ~~and Brian Potashnik~~SLP-C and MMA Special Limited Partner, Inc. Altogether, the Loan and the Equity are referred to herein as the "Financing."

D. In connection with the Financing, SHDC and/or Brian Potashnik (an affiliate of SHDC) and certain other of their affiliates (altogether, the "Guarantors") will be required to provide certain guarantees ~~and, indemnities, representations, warranties and covenants~~ (altogether, the "Guaranteed Obligations") as evidenced by the documentation relating to the Financing (altogether, the "Financing Documentation").



E. The Non Profit Owner is listed as the owner of the General Partner for purposes of the 35-day filing with the Attorney General's office.

F. Bright 3III has facilitated the financing and the development for the Project.

G. Laureland/Scyene Holding Company, Inc., a Texas non-profit corporation ("LSHC") a wholly owned subsidiary of DHA, is anticipated to become the sole owner of the General Partner immediately after the closing of the Financing.

H. The Partnership and/or DHA, as applicable will apply for a 100% ad valorem tax exemption on all land owned by DHA to be used for the Project and all of the improvements in the Project (the "Tax Exemption").

I. The parties desire to set forth their agreement pursuant to which they will proceed with the closing of the Financing and the development, construction and operation of the Project and operation of the Partnership.

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the parties hereto agree as follows:

#### AGREEMENT

1. Representations, Warranties and Covenants of Non Profit Owner. Non Profit Owner hereby represents, warrants and covenants as follows:

(a) Immediately prior to closing of the Financing Non Profit Owner will: (1) accept Brian Potashnik's assignment of the Units in the form attached hereto as Exhibit A; (2) adopt the Operating Agreement attached as Exhibit B (the "Operating Agreement"); (3) appoint Brian Potashnik to sign all Financing Documentation on behalf of the General Partner.

(b) Immediately after closing of the Financing, Non Profit Owner will assign all of the Units in the General Partner to LSHC in accordance with the Assignment attached hereto as Exhibit C (the "GP Assignment") and will thereafter have no further right or obligation with respect to the Partnership or the Project.

2. (a) Representations, Warranties and Covenants of General Partner and DHALSHC. The General Partner and DHA, as applicable, LSHC hereby represent, warrant and covenant as follows:

(1) (a) Immediately after closing of the Financing, DHALSHC will accept the GP Assignment.

(2) (b) DHALSHC will not cause or permit the General Partner to issue any additional membership interests, including, without limitation, any options, warrants, subscription rights, calls or commitments of any character whatsoever relating to, the membership interests in the General Partner or to enter into any contracts by which the General Partner is or may become bound to issue additional membership interests or options, warrants or other rights to purchase or acquire any membership interests in the General Partner.



(3) ~~(e)~~ Except for the Units, there will not be any outstanding membership interests, options, warrants, subscription rights, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, membership interests of the General Partner and DHALSHC has not entered into any contracts by which the General Partner is, will or may become bound to issue additional membership interests in the General Partner or options, warrants or other rights to purchase or acquire such membership interests.

(4) ~~(d)~~ DHALSHC will at all times continue to be the direct ~~or indirect~~ owner, beneficially and of record, of the Units, to hold the Units free and clear of all liens and encumbrances, and to make no assignment, pledge, hypothecation or transfer of, or to create or permit to exist any security interest in or other lien on the Units, except as otherwise required by the Financing Documentation. Any transfer in the violation of the Financing Documentation shall be null and void.

(5) ~~(e)~~ DHALSHC will not permit the amendment or modification of the Articles of Organization of the General Partner as currently in effect and attached hereto as Exhibit D, or of the Operating Agreement without the written consent or joinder of the SLP-B which consent shall be given if the amendment is not contrary to the terms hereof and is not in violation of or inconsistent with the Financing Documentation.

(6) ~~(f)~~ Except as set forth herein or in the Financing Documentation, DHALSHC will not permit any person or entity other than DHALSHC to own, control, manage or bind the General Partner, and the General Partner shall not permit any person or entity to bind or represent the Partnership.

(7) ~~(g)~~ General Partner will not take any action or omit to take any action on behalf of itself or the Partnership that will cause a default under any Financing Documentation or a withdrawal of the General Partner under the Partnership Agreement.

(8) ~~(h)~~ General Partner will not on behalf of itself or the Partnership amend or modify any Financing Documentation, without the prior written consent or joinder of the SLP-B.

(9) ~~(i)~~ DHALSHC will ~~directly or indirectly~~ continue to directly control 100% of the general partner interest in the Partnership. DHALSHC will not take any action to cause the General Partner to be in default under this Agreement.

(10) ~~(j)~~ DHALSHC and the General Partner will cause the Partnership to apply for, obtain, and maintain the Tax Exemption.

(11) ~~(k)~~ DHALSHC will not take any action or omit to take any action on behalf of itself or the General Partner to cause the Tax Exemption to be terminated or voided.

(12) ~~(l)~~ The General Partner will not take any action or omit to take any action on behalf of itself or the Partnership to cause the Tax Exemption to be terminated or voided.



(13) ~~(m)~~—The General Partner will cooperate in entering into and consummating the Financing Documentation in substantially similar form as in previous transactions in which SHDC has been involved.

(b) Covenants of DHA.

(1) DHA will at all times remain the sole owner of LSHC and will have sole control over LSHC and will not transfer, encumber or otherwise dispose of any of its rights or interests in LSHC or any of its indirect rights or interests in the General Partner. Any transfer in violation of the Financing Documentation will be null and void.

(2) DHA will use its commercially reasonable best efforts to take all actions necessary to apply for, obtain and maintain the Tax Exemption.

3. Indemnification

(a) By SHDC. SHDC shall indemnify and hold DHA (and its affiliates (other than the General Partner or LSHC), officers and directors) harmless from and against any and all claims and actions and actual losses, expenses and liabilities incurred by DHA (or its affiliates (other than the General Partner or LSHC), officers or directors) and paid to third parties in connection with or arising out of any action by the SLP-B or any of its affiliates which binds the Partnership, except in instances where a default by DHA or the General Partner or any of their affiliates or the gross negligence or willful misconduct of DHA or the General Partner or any of their affiliates caused the claim, action, loss, expense or liability.

(b) By the General Partner and LSHC. The General Partner and LSHC shall indemnify and hold the Guarantors harmless from and against any and all claims and actions and actual losses, expenses and liabilities incurred by the Guarantors in connection with or arising out of any General Partner, LSHC or DHA default hereunder or gross negligence or willful misconduct on the part of General Partner, LSHC or DHA, except in instances where a default by the SLP-B or the Guarantors or the gross negligence or willful misconduct of the SLP-B or the Guarantors caused the claim, action, loss, expense or liability.

(c) By DHA. DHA shall be liable for any breach or default by DHA hereunder; provided DHA's liability shall be limited solely and exclusively to its direct or indirect interest in LSHC or the Company General Partner and any fee or distribution it or its affiliates may receive in connection with the Partnership.

4. Reimbursement. If any of the Guarantors expend any funds in connection with the Guaranteed Obligations, then the Guarantor shall be reimbursed by the Partnership ~~and the~~ the General Partner and LSHC (a) to the same extent the General Partner would have been entitled to reimbursement under the Partnership Agreement; (b) from amounts the General Partner is otherwise entitled to under the Partnership Agreement; or (c) from amounts payable to General Partner or ~~DHA~~LSHC or any of ~~its~~their affiliates hereunder, whichever funds are available first; provided, to the extent General Partner or ~~DHA~~LSHC or any of ~~its~~their affiliates ~~has~~have already rightfully received a payment hereunder, ~~it~~they shall not be required to give up that payment except as set forth in 3(b) or 3(c) above. In the event the Guarantors pay any funds in connection with any repurchase obligation under the Partnership Agreement, the SLP-B shall be entitled to



be the replacement limited partner for the Investor. Nothing herein shall limit the Guarantor's rights of subrogation against the Partnership.

5. Fees and Affiliate Contracts.

(a) The Partnership will enter into a Development Agreement with LSHC and SHDC as co-developers, pursuant to which the developers will be entitled to the maximum developer fee permitted by the Department. The first \$150,000 of developer fee shall be paid by the Partnership to LSHC at closing of the Financing. SHDC will receive 100% of the succeeding payments of the developer fee until SHDC on the one hand and LSHC on the other hand have received 75% and 25% of the developer fee, respectively, and thereafter, SHDC shall receive 75% of the developer fee and ~~DHAL~~LSHC shall receive 25% of the developer fee.

(b) ~~Any Incentive Management Fee or Partnership Management Fee payable to the General Partner under the Partnership Agreement shall be paid or distributed 25% to the General Partner, 25% to SLP-C, and 50% to the SLP-B.~~

(c) ~~Any net operating cash flow (including, without limitation, any incentive management fee, asset management fee and other fees paid to partners out of net operating cash flow) that is not paid or distributed to the Investor or the co-developers or any non partner shall be paid or distributed so that (1) 50% is paid or distributed to the General Partner and the SLP-C, with the first \$25,000 goes to the GP and then 25% of such 50% being paid or distributed to the General Partner, 25% to and the remainder being split evenly between the General Partner and the SLP-C, and (2) 50% to the SLP-B, or its designee. Any net capital proceeds (including, without, limitation, any fees paid to partners out of net capital proceeds) that is not paid or distributed to the investor or co-developers or a non partner shall be paid or distributed 100% to the GP General Partner. Except for the property management fee, any payments made under paragraph 6(a) above, and construction fees under the construction contracts, all amounts paid or distributed to partners or affiliates of any partners shall be made solely from net operating cash flow or net capital proceeds.~~

(c) ~~(d)~~ The Partnership shall contract with Affordable Housing Construction, Inc., a Nevada corporation ("AHC") to serve as the general contractor of the Project and AHC shall be entitled to receive the maximum contractor fee permitted by the Department. AHC may assign its rights to be the general contractor to a non-profit entity.

(d) ~~(e)~~ The Partnership shall contract with Southwest Housing Management Corporation, a Texas corporation ("SHMC") to serve as the property manager for the Project and SHMC shall be entitled to receive a property management fee of 5% of gross income.

(f) ~~At the closing of the Financing, Non Profit Owner shall receive \$15,000, which amount shall be paid from the \$150,000 paid under 5(a) above.~~

(e) ~~(g)~~ The Partnership shall cause the general contractor to cause a minimum of forty percent (40%) of the total hard costs construction budget to be subcontracted to historically underutilized businesses ("HUB") having obtained such status from a certified governing agency in the state of Texas. In awarding such subcontracts the general contractor shall be required to award contracts in size and scope that are competitive and feasible.



(f) ~~(h)~~ Bright III will be added as a special limited partner of the Partnership for the sole purpose of receiving the distributions set forth in (b) and (c) above and SLP-C shall have no other rights, as a partner or otherwise.

(g) ~~(i)~~ Bright III will perform certain social services for the Project as described in Exhibit E. These social services shall be performed at the request and under the supervision of SHDC. ~~The promises to pay and payment under paragraph (b) above SHMC. The budget for the Project shall include an operating expense line item of \$25,000 which shall be used to pay for these social services and shall be the sole consideration for the performance source of such social services payment.~~

~~(j) DHA shall share with Bright 3 on a 50/50 basis any and all payments and distributions received by DHA in connection with the Project.~~

(h) The parties acknowledge that Dallas Housing Financing Corporation will receive \$50,000 per annum on a non cumulative basis from net operating cash flow prior to any payments of net operating cash flow to any other persons or entities other than an asset management fee and certain adjuster payments to be made to the Investor or its affiliates.

(i) The parties will ensure that the Financing Documentation will include a right of first refusal in favor of DHA in accordance with the terms of Section 42(i)(7) of the Code.

6. Notice. Any notice or communication required or permitted hereunder shall be given in writing, sent by (i) personal delivery, or (ii) United States mail, postage prepaid, registered or certified mail, return receipt requested or (iii) facsimile, addressed as follows:

If to Non Profit Owner:

Marty Mascari  
299 South Hampton Road  
Dallas, Texas 75224  
Phone: (214) 696-6077  
Fax: (214) 416-0366

With a copy to:

William G. Driggers, Esq.  
Sixth Floor  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Phone: (202) 347-0066  
Fax: (202) 624-7222

If to General Partner or the  
Partnership:

\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

TX Scyene Development, L.L.C.  
c/o The Housing Authority of Dallas, Texas  
3939 North Hampton Road  
Dallas, Texas 75212  
Phone: (214) 951-8301  
Fax: (214) 951-8800

Barry Palmer, Esq.  
Coats Rose, Yale, Ryman & Lee  
3 Greenway Plaza, Suite 2000  
Houston, Texas 77046  
Phone: (713) 653-7395  
Fax: (713) 651-0220

Brian Potashnik  
Deepak P. Sulakhe  
c/o Southwest Housing  
5910 North Central Expressway, Suite 1145  
Dallas, Texas 75206  
Phone: (214) 891-7831  
Fax: (214) 987-3507

Randal M. Alligood, P.A.  
Broad and Cassel  
390 North Orange Avenue, Suite 1100  
Orlando, Florida 32801  
Phone: (407) 839-4202  
Fax: (407) 650-0914

If to SHDC:

Brian Potashnik  
Southwest Housing Development Company, Inc.  
5910 North Central Expressway, Suite 1145  
Dallas, Texas 75206

With a copy to:

Randal M. Alligood, P.A.  
Broad and Cassel  
390 N. Orange Avenue, Suite 1100  
Orlando, Florida 32801  
Phone: (407) 839-4202  
Fax: (407) 650-0914



If to DHA:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TX Scylene Development, L.L.C.  
c/o The Housing Authority of Dallas, Texas  
3939 North Hampton Road  
Dallas, Texas 75212

If to Bright 3:III:

Phone: (214) 951-8301  
Fax: (214) 951-8800

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

Bright III Community Housing Development  
Organization  
Attn: James Fulbright  
1801 N. Hampton Road, Suite 230  
Desoto, Texas 75115

or to such other address or to the attention of such other person as hereafter shall be designated in writing by the applicable parties sent in accordance herewith. Any such notice or communication shall be deemed to have been given either at the time of personal delivery or in the case of mail, as of three (3) days after postmark when sent by United States mail at the address and in the manner provided herein, or in the case of facsimile, upon receipt.

7. Texas Law to Apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas. Exclusive venue shall be in Dallas County, Texas.

8. Parties Bound. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.

9. Legal Construction. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

10. Prior Agreements Superseded. This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral

agreements between the parties respecting the within subject matter. However, nothing herein shall negate similar provisions in the Partnership Agreement.

11. Headings. The headings used in this Agreement have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing this Agreement.

12. Assignment. No party may assign this Agreement without the prior written consent of the other parties, except as otherwise provided herein.

13. Attorneys' Fees and Legal Expenses. Should either party hereto institute any action or proceeding in court to enforce any provision hereof or for damages by reason of any alleged breach of any provision of this Agreement or for any other judicial remedy, the prevailing party shall be entitled to receive from the losing party all reasonable attorneys' fees and all court costs in connection with said proceeding.

14. Counterparts and Facsimiles. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. In addition, this Agreement may be executed by facsimile signatures and such signatures shall be deemed an original.

15. Modification and Termination. This Agreement may not be modified or amended except by a written instrument signed by the parties hereto and referring specifically to this Agreement. ~~This Agreement and all obligations hereunder shall terminate at such time as (i) the Guarantors have no further exposure for the Guaranteed Obligations and all obligations hereunder have been fully performed and any deferred developer fee has been paid in full; or (ii) prior to the closing of the Financing, at the option of SHDC, if SHDC determines, in its sole discretion, that DHA will not qualify the Partnership for the Tax Exemption.~~ In the event SHDC determines the Tax Exemption is not available, it may terminate this Agreement.

16. Other Instruments. Each party shall, upon the request of the other party, execute, acknowledge and deliver any and all instruments reasonably necessary or appropriate to carry into effect the intention of the parties as expressed in this Agreement.

17. Rule of Construction. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

18. Third Party Beneficiaries. It is agreed to by the parties that the Guarantors and the SLP-B, SLP-C, AHC and SHMC are direct third party beneficiaries hereunder, entitled to exercise fully and completely any rights that any of them may have for enforcement of the terms and provisions hereof to the same extent as if they were parties to this Agreement.

19. Representation. Attorneys for SHDC, SHMC and the SLP-B shall represent those parties and the Partnership in connection with the closing of the Financing and their fees will be paid by the Partnership.



20. Exclusive Dealing. Neither Party shall, directly or indirectly, through an owner, employee, agent, representative, commissary, or affiliate, enter into discussions with (or consummate an agreement with) any party not a signatory to this agreement with respect to the performance of the terms of this agreement as set forth herein.

21. Access to Information. After the execution of this agreement, the General Partner shall permit the Partnership and SHDC and its accountants, counsel, and other representatives and agents to have reasonable access to its properties and the books, records, contracts, and other documents and information concerning its businesses, finances, and assets solely for the purpose of performing its obligations, and determining its rights pursuant to this agreement. The General Partner shall have the same rights to access the books and records of the other parties hereto relating to the Project.

22. Public Disclosures. Each Party shall consult the other and must agree as to the timing, content, and form before issuing any press release or other public disclosure related to this agreement or the Project. However, this section does not prohibit either Party from making a public disclosure regarding this agreement and the Project if, in the opinion of its legal counsel, such disclosure is required by law.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

NON PROFIT OWNER

HOUSING SERVICES INCORPORATED

By: \_\_\_\_\_  
Marty Mascari, Executive Director

PARTNERSHIP:

TX SCYENE HOUSING, L.P., a Texas limited partnership

By: TX Scyene Development, L.L.C., a Texas limited liability company, its general partner

By: \_\_\_\_\_  
Brian Potashnik, President

SHDC:

SOUTHWEST HOUSING DEVELOPMENT COMPANY, INC., a Texas corporation (solely with respect to matters relating to SHDC)

By: \_\_\_\_\_  
Brian Potashnik, President

TX-GP:

TX SCYENE DEVELOPMENT, L.L.C., a Texas limited liability company

By: \_\_\_\_\_  
Brian Potashnik, President



BRIGHT 3III:  
DEVELOPMENT

BRIGHT 3III COMMUNITY HOUSING  
ORGANIZATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

DHA:

THE HOUSING AUTHORITY OF THE CITY OF  
DALLAS, TEXAS

By: \_\_\_\_\_  
Ann Lott, President and CEO

**EXHIBIT A**

Assignment of the Units  
(Brian Potashnik to Non Profit Owner)



**POTASHNIK  
ASSIGNMENT OF MEMBERSHIP INTEREST**

This Assignment is made effective as of the \_\_\_\_ day of January, 2005, by Brian Potashnik ("Potashnik") in favor of Housing Services Incorporated, a Texas non-profit corporation ("HSI").

**RECITALS**

WHEREAS, Potashnik is the sole owner of 100% of all issued and outstanding membership interests (the "Units") in TX Scyene Development, L.L.C., a Texas liability company ("TX-GP");

WHEREAS, Potashnik desires to transfer all of the Units to HSI;

WHEREAS, HSI desires to accept the assignment of such Units;

NOW THEREFORE, for \$10.00 and other good and valuable consideration:

1. Potashnik hereby transfers and delivers to HSI all of the Units.
2. Potashnik hereby makes the following representations, warranties and covenants to HSI:

(a) The Units have at all times comprised 100% of the issued and outstanding membership interests in TX-GP.

(b) Except for the Units, there have not been any outstanding membership interests, options, warrants, subscription rights, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, membership interests of TX-GP and there are no contracts by which TX-GP is or will or may become bound to issue additional membership interests in TX-GP or options, warrants or other rights to purchase or acquire such membership interests.

(c) Potashnik has at all times continued to be the sole owner, beneficially and of record, of the Units and has held the Units free and clear of all liens and encumbrances and has not made any assignment, pledge, hypothecation or transfer of or created or permitted to exist any security interest in or other lien on the Units.

(d) TX-GP is currently governed by the Articles of Organization of TX-GP dated as of September 3, 2002 and filed with the Texas Secretary of State on September 4, 2002, as amended those certain Articles of Amendment to the Articles of Organization dated as of August 28, 2003 and filed with the Texas Secretary of State on August 29, 2003.

3. Southwest Housing Development Company, Inc. ("SHDC") hereby agrees to indemnify and hold HSI harmless from and against any and all actual losses, costs and expenses incurred by HSI and paid to third parties as a direct result of HSI acquiring ownership of the Units; provided HSI has not taken any action as owner of the Units other than as required by that certain Master Agreement dated as of \_\_\_\_\_, 2004 by and among SHDC, TX-GP, HSI, TX Scyene Housing, L.P., the Housing Authority of the City of Dallas, Texas and Bright ~~3~~III Community Development Organization; and provided further SHDC is given adequate notice and opportunity to defend any indemnifiable claims hereunder.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

\_\_\_\_\_  
Brian Potashnik

Accepted and agreed to:

Housing Services Incorporated, a Texas non-profit  
corporation

By: \_\_\_\_\_  
Marty Mascari, Executive Director

Joinder for good and valuable consideration and for  
purposes of paragraph 3 only:

Southwest Housing Development Company, Inc.

By: \_\_\_\_\_  
Brian Potashnik, President

**EXHIBIT B**

**Operating Agreement of the General Partner**



## **SECOND AMENDED AND RESTATED**

### **REGULATIONS**

#### **OF**

### **TX SCYENE DEVELOPMENT, L.L.C.**

These Second Amended and Restated Regulations of TX Scyene Development, L.L.C., are hereby duly adopted as the regulations of TX Scyene Development, L.L.C., a Texas limited liability company (the "Company"), by Housing Services Incorporated, a Texas non-profit corporation, as the sole manager, and are hereby ratified, confirmed and approved as such by Housing Services Incorporated, a Texas non-profit corporation (the "Sole Member"), as sole member.

#### **Background**

The Company was formed pursuant to those Articles of Organization of Primrose Central TX 1 Development, L.L.C. (n/k/a TX Scyene Development, L.L.C.), dated September 3, 2002, filed with the Office of the Secretary of State of Texas ("Secretary of State") on September 4, 2002; as amended by those certain Articles of Amendment to the Articles of Organization, dated August 28, 2003, filed with the Secretary of State on August 29, 2003. Upon formation regulations were in place and replaced by those certain Amended and Restated Regulations dated as of August 29, 2003.

Pursuant to that certain Assignment of Membership Interests dated as of \_\_\_\_\_, 2005 Brian Potashnik assigned all of his membership interests to the Sole Member.

The sole Manager and Sole Member hereby agree to organize and operate the Company in accordance with the terms and subject to the conditions set forth in this Agreement for the benefit of the Sole Member.

#### **ARTICLE 1**

#### **Definitions**

1.1 **Definitions.** The following terms used in these Regulations shall have the following meanings (unless otherwise expressly provided herein):

(a) "**Act**" shall mean the Texas Limited Liability Company Act, as the same may be amended from time to time.

(b) "**Capital Contribution**" means any contribution to the capital of the Company in cash or property by a Member whenever made.

(c) "**Distributable Cash**" means all cash, revenues and funds received by the Company from Company operations, less the sum of the following to the extent paid or set aside

by the Company: (i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders; (ii) all cash expenditures incurred incident to the normal operations of the Company's business; and (iii) such cash reserves as the Manager deems reasonably necessary to the proper operation of the Company's business.

(d) "Distribution" or "Distributions" means any cash or other Company assets distributed to a Member by the Company on account of that Member's Membership Interest as provided in Article VI hereof.

(e) "Initial Capital Contribution" means the initial contribution to the capital of the Company made by the Member pursuant to these Regulations.

(f) "Code" means the Internal Revenue Code of 1986, as amended.

(g) "Company" means TX Scyene Development, L.L.C., a Texas limited liability company.

(h) "Fiscal Year" means the Company's fiscal year, which shall be the calendar year.

(i) "Manager" or collectively, "Managers" means Housing Services Incorporated, a Texas non-profit corporation, or any other person or entity that succeed it in that capacity or are elected to act as additional managers of the Company as provided herein.

(j) "Majority" means, with respect to any referenced group of Managers, a combination of any of such Managers constituting more than fifty percent (50%) of the number of Managers of such referenced group who are then elected and qualified.

(k) "Majority in Interest" means, with respect to any referenced group of Members, a combination of any of such members who, in the aggregate, own more than fifty percent (50%) of the Membership Interests owned by all of such referenced group of Members.

(l) "Member" means each person designated as a member on Schedule 1 attached hereto and made a part hereof, any successor or successors to all or any part of any such person's interest in the Company, or any additional member admitted as a member of the Company in accordance with Article VII, each in the capacity as a member of the Company. "Members" mean all such persons collectively in their capacity as members of the Company.

(m) "Membership Interest" means the percentage of ownership interest of a Member of the Company at any particular time.

(n) "Regulations" means these Regulations of the Company as originally adopted and as amended from time to time.

## ARTICLE 2

### Formation of the Company

2.1 Name and Formation. The name of the Company is TX Scyene Development, L.L.C. The Company was formed pursuant to the Amended Articles as defined above.

2.2 Principal Place of Business. The principal place of business of the Company within the State of Texas shall be 2999 S. Hampton Road, Dallas, Texas 75224. The Company may locate its place of business and registered office at any other place or places as the Manager may from time to time deem necessary or advisable.

2.3 Registered Office and Registered Agent. The Company's registered office shall be at Corporation Services Company, 701 Brazos Street, Suite 1050, Austin, Texas 75206, and the name of its registered agent at such address shall be Corporation Services Company.

2.4 Term. The term of existence of the Company shall be perpetual from the date of filing of its Articles of Organization with the Secretary of State of Texas, unless the Company is earlier dissolved in accordance with either the provisions of these Regulations or the Act.

2.5 Purposes and Powers.

(a) To serve as the general partner of TX Scyene Housing, L.P., a Texas limited partnership engaged in providing low-income housing pursuant to certain low income tax credit provisions of the Internal Revenue Code, and to conduct any or all lawful business for which limited liability companies may be organized under the Act.

(b) The Company shall have any and all powers which are necessary or desirable to carry out the purposes and business of the Company, to the extent the same may be legally exercised by limited liability companies under the Act. The Company shall carry out the foregoing activities pursuant to the arrangements set forth in the Articles of Organization of the Company under these Regulations.

## ARTICLE 3

### Rights and Duties of Managers

3.1 Management. The powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed by or under the authority of, its designated Manager or Managers. In addition to the powers and authorities expressly conferred by these Regulations upon the Managers, any one Manager may exercise all such powers of the Company and do all such lawful acts and things as are not directed or required to be exercised or done by the Members by the Act, the Amended Articles of the Company or these Regulations, including, but not limited to, contracting for or incurring debts, liabilities and other obligations on behalf of the Company. The Managers may designate one or more persons, including without limitation itself or themselves, as officers of the Company.

Such officers shall have the powers and duties delegated to them in the document making such delegation.

3.2 Number and Qualifications. The number of Managers of the Company shall not be less than one (1) nor more than seven (7), as may be determined by the Members from time to time, but no decrease in the number of Managers shall have the effect of shortening the term of any incumbent Manager. Managers need not be residents of the State of Texas. The Managers need not be a Member of the Company and the Managers need not own, Membership Interests in the Company. The Managers in their discretion may elect a chairman of the Managers who shall preside at meetings of the Managers.

3.3 Election. At the first annual meeting of the Members and at each annual meeting thereafter, the Members shall elect one or more Managers to hold office until the next succeeding annual meeting. Unless removed in accordance with these Regulations, each Manager shall hold office for the term for which he is elected and until his successor shall be elected and qualified.

3.4 Vacancy. Any vacancy occurring for any reason in the number of Managers shall be filled by the affirmative vote of a Majority in Interest of the Members. A Manager elected to fill a vacancy shall be elected for the unexpired term of the predecessor in office.

3.5 Removal. At a meeting called expressly for such purpose, all or any lesser number of Managers may be removed at any time, with or without cause, by the affirmative vote of a Majority in Interest of the Members.

3.6 Place of Meetings. All meetings of the Managers of the Company may be held either within or without the State of Texas.

3.7 Annual Meetings of Managers. The annual meeting of Managers shall be held, without further notice, immediately following the annual meeting of Members, and at the same place, or at such other time and place as shall be fixed with the consent in writing of all the Managers.

3.8 Regular Meetings of Managers. Regular meetings of the Managers may be held without notice at such time and place either within or without the State of Texas as shall from time to time be determined by the Managers.

3.9 Special Meetings of Managers. Special meetings of the Managers may be called by any Manager on three (3) days' notice to each Manager, either personally or by mail, telephone or by telegram.

3.10 Quorum. At all meetings of the Managers, the presence of a Majority of the Managers shall be necessary and sufficient to constitute a quorum for the transaction of business unless a greater number is required by law. The act of a Majority of the Managers present at a meeting at which a quorum is present shall be the act of the Managers, except as otherwise provided by law, the Articles of Organization or these Regulations. If a quorum shall not be present at any meeting of the Managers, the Managers present at the meeting may adjourn the



meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

3.11 Attendance and Waiver of Notice. Attendance of a Manager at any meeting shall constitute a waiver of notice of such meeting, except where a Manager attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Managers need be specified in the notice or waiver of notice of such meeting.

3.12 Actions Without a Meeting and Telephone Meetings. Notwithstanding any provision contained in this Article III, all actions of the Managers provided for herein may be taken by written consent without a meeting, or any meeting thereof may be held by means of a conference telephone. Any such action which may be taken by the Managers without a meeting shall be effective only if the written consent or consents are in writing, set forth the action so taken, and are signed by the Managers having not fewer than the minimum number of votes that would be necessary to take the action at a meeting at which all Managers entitled to vote on the action were present and voted.

3.13 Compensation of Managers and Officers. Managers, as such, shall not receive any stated salary for their services, but shall receive such compensation for their services as may be from time to time agreed upon by a Majority in Interest of the Members. In addition, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Managers, provided that nothing contained in these Regulations shall be construed to preclude any Manager from serving the Company in any other capacity, including as an officer, and receiving compensation for such service.

3.14 Committees. The Managers may, by resolution, designate from among the Managers one or more committees, each of which shall be comprised of one or more Managers, and may designate one or more of the Managers as alternate members of any committee, who may, subject to any limitations imposed by the Managers, replace absent or disqualified Managers at any meeting of that committee. Such committee shall have and may exercise all of the authority of the Managers, subject to the limitations set forth in the Act.

3.15 Officers.

(a) Election of Officers. There shall be a President, Vice President, Secretary and Treasurer of the Company. Officers need not be a Member or Manager of the Company or a resident of Texas. The Managers may elect or appoint such other officers and agents as they shall deem necessary, who shall be appointed for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Managers. Any two or more offices may be held by the same Person. Each officer of the Company shall hold office until his successor is chosen and is qualified in his stead or until his death or until his resignation or removal from office. Any vacancy in any office because of death, resignation, removal or otherwise may be filled by such person as is elected or appointed by the unanimous vote of the Managers. The officers of the Company shall not receive any compensation for their service as an officer unless such amount is unanimously approved by the Members.

(b) Authority and Duties. The officers of the Company shall have the authority and shall exercise the powers and perform the duties specified below and as may be additionally specified by the Managers or this Agreement (and in all cases where the duties of any officer are not prescribed by this Agreement or the Managers, such officer shall follow the orders and instructions of the President):

(i) President. The President of the Company shall preside over the general and active management of the business of the Company, and shall direct, manage and control the business of the Company to the best of his ability. He shall serve until resignation or dissolution and liquidation of the Company or removal by the Managers. The President shall have full and complete authority, power and discretion to make any and all decisions and do any and all things that he deems to be reasonably required in furtherance of the Company's business and objectives. In effectuating his duties, the President shall have general signatory authority for the Company. Without limiting the generality of the foregoing, the President or such subordinate officer designated by the President, or any officer duly authorized by the Managers shall have the power and authority on behalf of the Company:

(1) to purchase liability and other insurance to protect the Company's property and business;

(2) to invest any Company funds temporarily (by way of example but not limitation) in time deposits, short-term governmental obligations, commercial paper or other investments;

(3) to employ accountants, legal counsel, managing agents or other experts, employees or agents to perform services for the Company and to compensate them from Company funds;

(4) to negotiate with employees and any labor organization representing employees of the Company; and

(5) to carry out all orders and resolutions of the Managers.

(ii) Treasurer. The Treasurer shall: (i) collect and keep an account of all moneys received and expended for the use of the Company; (ii) deposit sums received by the Company in the name of the Company in such depositories as shall be approved by the Managers; (iii) present reports of the finances of the Company at each annual meeting and when called upon by the President; and, (iv) perform such related duties as shall be directed by the Managers or the President. The funds, books, and vouchers in the hands of the Treasurer shall at all times be subject to the inspection, supervision, and control of the Managers and the President. At the expiration of his or her term of office, the Treasurer shall turn over to his or her successor in office all books, records, monies, and other properties of the Company.

(iii) Vice President. The Managers may appoint one or more Vice Presidents who shall perform the duties of the President in the absence of the President, and such other duties as are prescribed by the Managers and the President.

(iv) Secretary. The Secretary shall attend all meetings of the Managers and Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for any committee, if requested. He shall give, or cause to be given, notice of the meetings of the Managers and Members where such notices are required by this Agreement or the Act to be given. He shall be under the supervision of the President. He shall perform such other duties and have such other authority and powers as the Managers may from time to time prescribe or as the President may from time to time delegate.

(c) Execution of Contracts. Subject to the limitations contained in these Regulations, each of the President or such subordinate officer or officers designated by the President or any officer designated by the Managers shall have the authority to execute on behalf of the Company all agreements, instruments and documents, including, without limitation, checks, drafts, notes and other negotiable instruments, mortgages, deeds of trusts, security agreements, financing statements, documents providing for the acquisition, mortgage or disposition of the Company property, assignments, bills of sale, leases, partnership agreements and any other instruments or documents necessary to effectuate any actions which have been approved by the Members or the Managers (if such actions require under the Act or this Agreement the approval of the Members or the Managers) or by the President (if such actions do not require under the Act or this Agreement the approval of the Members or the Managers).

(d) General.

(i) Removal. Any officer may be removed at any time by the unanimous vote of the Managers whenever in the Managers' business judgment the best interests of the Company will be served thereby, but such removal will be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer shall not in itself create contract rights.

(ii) Resignation. Any officer may resign at any time, subject to the rights or obligations under any existing contracts between the officer and the Company, by giving written notice to the President or any Manager. An officer's resignation shall take effect at the time specified in the notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

(iii) Vacancies. A vacancy in any office, however occurring, may be filled by the Managers.

(iv) Indemnification. The Company shall indemnify the Managers, officers, and Members to the extent set forth in Article IV.

## ARTICLE 4

### Meetings of Members

4.1 Place of Meetings. All meetings of the Members shall be held at the principal office of the Company or at such other place within or without the State of Texas as may be determined by the Managers and set forth in the respective notice or waivers of notice of such meeting.

4.2 Annual Meetings of Members. The annual meeting of the Members of the Company for the election of Managers and the transaction of such other business as may properly come before the meeting, shall be held at such time and date as shall be designated by the Managers from time to time and stated in the notice of the meeting. Such annual meeting shall be called in the same manner as provided in these Regulations for special meetings of the Members, except that the purposes of such meeting need be enumerated in the notice of such meeting only to the extent required by law in the case of annual meetings.

4.3 Special Meetings of Members. Special meetings of the Members may be called by the Managers or by the holders of not less than twenty percent (20%) of all the Membership Interests. Business transacted at all special meetings shall be confined to the purposes stated in the notice.

4.4 Notice of Meetings of Members. Written or printed notice stating the place, day and hour of the meeting and, in the case of special meetings, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the Managers or person calling the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the transfer records of the Company, with postage prepaid.

4.5 Quorum. A Majority in Interest of the Members shall constitute a quorum at all meetings of the Members, except as otherwise provided by law or the Amended Articles. Once a quorum is present at the meeting of the Members, the subsequent withdrawal from the meeting of any Member prior to adjournment or the refusal of any Member to vote shall not affect the presence of a quorum at the meeting. If, however, such quorum shall not be present at any meeting of the Members, the Members entitled to vote at such meeting shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until the holders of the requisite amount of Membership Interests shall be present or represented. At any meeting of the Members at which a quorum is present, the vote of the holders of a Majority in Interest of all the Members shall be the act of the Members, unless the vote of a greater number is required by law, the Amended Articles or these Regulations.

4.6 Voting on Matters Other Than the Election of Managers. For purposes of voting on matters other than the election of Managers or a matter for which the affirmative vote of the holders of a specified portion of the Membership Interests entitled to vote is required by the Act,



at any meeting of the Members at which a quorum is present, the act of Members shall be the affirmative vote of the holders of a Majority in Interest of all the Members present.

4.7 Voting in the Election of Managers. For purposes of voting on the Election of Managers, Managers shall be elected at any meeting of the Members at which a quorum is present by the vote of a Majority in Interest of all the Members.

4.8 List of Members Entitled to Vote. The Managers shall make, at least five (5) days before each meeting of Members, a complete list of the Members entitled to vote at such meeting, or any adjournment of such meeting, arranged in alphabetical order, with the address of and the Membership Interest held by each, which list, for a period of five (5) days prior to such meeting, shall be kept on file at the registered office of the Company and shall be subject to inspection by any Member at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection of any Member during the whole time of the meeting. However, failure to comply with the requirements of this Section shall not affect the validity of any action taken at such meeting.

4.9 Registered Members. The Company shall be entitled to treat the holder of record of any Membership Interest as the holder in fact of such Membership Interest for all purposes, and accordingly shall not be bound to recognize any equitable or other claim to or interest in such Membership Interest on the part of any other person, whether or not it shall have express or other notice of such claim or interest, except as expressly provided by these Regulations or the laws of Texas.

4.10 Actions Without a Meeting and Telephone Meetings. Notwithstanding any provision contained in this Article IV, all actions of the Members provided for herein may be taken by written consent without a meeting, or any meeting thereof may be held by means of a conference telephone. Any such action which may be taken by the Members without a meeting shall be effective only if the written consent or consents are in writing, set forth the action so taken, and are signed by the holder or holders of Membership Interests constituting not less than the minimum amount of Membership Interests that would be necessary to take such action at a meeting at which the holders of all Membership Interests entitled to vote on the action were present and voted.

## ARTICLE 5

### Membership Capital

#### 5.1 Capital Contributions.

(a) Upon the execution of these Regulations, each Member shall contribute cash to the Company in the amount set forth as the Initial Capital Contribution of such Member on Schedule 1, attached hereto. Such cash shall be the Initial Capital Contribution of each such Member and, upon contribution, each such member shall receive its Membership Interest.

(b) If the Managers determine that the amounts contributed to the Company by the Members with regard to the Initial Capital Contributions are insufficient to carry out the

purposes of the Company, the Managers may request that the Members make additional Capital Contributions to the Company. No Member shall be required to make any additional Capital Contribution without the consent of all the Members.

(c) No Member shall be paid interest on any Capital Contribution to the Company.

## 5.2 Withdrawal or Reduction of Members' Contributions to Capital.

(a) A Member shall not receive out of the Company's property any part of its Capital Contributions until all liabilities of the Company, except the liabilities to Members on account of their Capital Contributions, have been paid or there remains property of the Company sufficient to pay such liabilities.

(b) No Member shall have the right to withdraw all or any part of its Capital Contribution or to receive any return on any portion of its Capital Contribution, except as may be otherwise specifically provided in these Regulations. Under circumstances involving a return of any Capital Contribution, no Member shall have the right to receive property other than cash.

(c) No Member shall have priority over any other Member, either as to the return of Capital Contributions or as to Distributions; provided that this subsection shall not apply to loans (as distinguished from Capital Contributions) which a Member has made to the Company.

5.3 Liability of Members. No Member shall be liable for the debts, liabilities or obligations of the Company beyond his respective Initial Capital Contribution. No Member shall be required to contribute to the capital of, or to loan, the Company any funds.

5.4 Membership Interests. The initial Membership Interest of each Member is set forth opposite his respective name on Schedule 1, attached hereto, which may be amended from time to time upon the sale of additional Membership Interests.

## ARTICLE 6

### Distributions Elections and Reports

6.1 Non-Liquidating Distributions; Withholdings. Except as provided in Section 6.2, all Distributions shall be made at such time and in such amounts as determined by the Managers. All Distributions of the Company shall be distributed among the Members in proportion to their respective Membership Interests in the Company on the record date of such Distributions. All amounts withheld pursuant to the Code or any provisions of state or local tax laws with respect to any payment or distribution to the Members from the Company shall be treated as amounts distributed to the relevant Member or Members pursuant to this Section.

6.2 Limitation Upon Distributions. No Distribution shall be declared and paid unless, after the Distribution is made, in the sole discretion of the Managers, (i) the assets of the Company are in excess of all liabilities of the Company, except liabilities to Members on account

of their Capital Contributions, or (ii) the Company would be able to pay its debts as they become due and payable.

6.3 Accounting Principles. The Distributable Cash of the Company shall be determined in accordance with accounting principles applied on a consistent basis as overseen and determined by the Managers.

6.4 Records and Reports. At the expense of the Company, the Managers shall maintain records and accounts of all operations and expenditures of the Company. At a minimum, the Company shall keep at its principal place of business the following records:

- (a) A current list that states:
  - (i) The name and mailing address of each Member; and
  - (ii) The Membership Interest owned by each Member;
- (b) Copies of the federal, state and local information or income tax returns for each of the Company's six most recent tax years;
- (c) A copy of the Amended Articles and Regulations, all amendments or restatements, executed copies of any powers of attorney, and copies of any document that creates, in the manner provided by the Articles of Organization or Regulations, classes or groups of Members;
- (d) Correct and complete books and records of account of the Company; and
- (e) Any other books, records or documents required by the Act or other applicable law.

6.5 Returns and Other Elections. The Managers shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, or pertinent information therefrom, shall be furnished to the Members within seventy-five (75) days after the end of each Fiscal Year of the Company. Except as provided in Section 6.6, all elections permitted to be made by the Company under federal or state laws shall be made by the Managers with the consent of a Majority in Interest of the Members.

6.6 Tax Classification. The Managers shall cause the Company to be classified as an association taxable as a corporation for income tax purposes and not as a partnership. None of the Managers, officers, or Members shall take any action or make any statement or filing which would be inconsistent with the Company's status as an association taxable as a corporation.

## ARTICLE 7

### Transferability

#### 7.1 Restrictions on Transfer of Membership Interest.

(a) Except as otherwise provided in this Article VII, each Member shall have the right to sell, transfer or assign all or any portion of its Membership Interest.

(b) Notwithstanding anything to the contrary contained herein, unless all of the Members shall consent, no Member shall sell, transfer or assign any portion of its Membership Interest if such sale, transfer or assignment:

(i) would otherwise cause the Company to lose its status as an association taxable as a corporation for federal income tax purposes;

(ii) would violate any federal securities laws or any applicable state securities laws (including suitability standards); or

(iii) would violate any other provision of these Regulations, including the acknowledgement of these Regulations by the transferee as provided in Section 7.3 below.

(c) Notwithstanding anything to the contrary in these Regulations, any transfer of any Membership Interests, or any interests therein or any changes in Managers which constitutes a violation under any loan document or mortgage, shall be null and void ab initio.

7.2 Death, Resignation or Incapacity of Member. If a Member dies, retires, resigns or becomes bankrupt or legally incapacitated, the liquidator, personal representative, trustee or receiver of its estate shall have all the rights of a Member for the purpose of settling or managing his estate and such power as the Member possessed to assign all or any part of its interest and to join with such assignee in satisfying conditions precedent to such assignee becoming a substituted Member. The death, retirement, resignation, bankruptcy or legal incapacity of a Member shall not dissolve the Company.

#### 7.3 Assignees.

(a) The Company shall not recognize for any purpose any purported sale, assignment or transfer of all or any fraction of the interest of a Member unless all costs of such assignment have been paid by the assigning Member and there is filed with the Company a written and dated notification of such sale, assignment or transfer, in form satisfactory to the Managers, executed and acknowledged by both the seller, assignor or transferor and the purchaser, assignee or transferee and such notification (i) contains the agreement by the purchaser, assignee or transferee to be bound by all the terms and provisions of these Regulations and (ii) represents that such sale, assignment or transfer was made in accordance with all applicable securities laws and regulations (including suitability standards). Any sale, assignment



or transfer shall be recognized by the Company as effective on the date of receipt of such notification by the Company.

(b) Any Member who assigns all its interest in the Company shall cease to be a Member, except that, unless and until a substituted Member has been admitted into the Company, such assigning Member shall retain the statutory rights of the assignor of a member's interest under the Act.

(c) A person who is the assignee of all or any fraction of the interest of a Member, but does not become a substituted Member, and desires to make a further assignment of such interest, shall be subject to all the provisions of this Article to the same extent and in the same manner as any Member desiring to make an assignment of its interest.

#### 7.4 Substituted and Additional Members.

(a) No Member shall have the right to substitute in its place a purchaser, assignee, transferee, donee, heir, legatee or other recipient of all or any portion of the Membership Interest of such Member. Any such purchaser, assignee, transferee, donee, legatee; distributee or other recipient of any interest shall be admitted to the Company as a substituted Member only with the written consent of a Majority in Interest of the other Members, which consent may be granted or withheld in the sole discretion of the other Members. Notwithstanding the immediately preceding, a Member shall be entitled to transfer all, but not less than all, of its Membership Interest to a wholly-owned subsidiary or other entity sharing common control with the transferring Member pursuant to a valid reorganization of the Member.

(b) Any person may, subject to the terms and conditions of these Regulations, become an additional Member in the Company by the sale of new Membership Interests for such consideration as a Majority in Interest of the Managers shall determine, upon obtaining the written consent of a Majority in Interest of the Members.

(c) No person shall become a substituted or additional Member until such person has satisfied the requirements of this Article VII; provided, however, that for the purpose of Distributions, a person shall be treated as having become, and as appearing in the records of the Company as, a Member, as the case may be, on such date as the sale, assignment or transfer to such person was recognized by the Company pursuant to Section 7.3.

#### 7.5 Withdrawal of Members.

(a) Except in connection with the assignment of a Membership Interest as provided in Section 7.3(b), no Member may withdraw or resign as a Member of the Company without the prior written consent of a Majority in Interest of the remaining Members.

(b) No withdrawing Member shall be entitled to receive any distribution upon withdrawal or resignation, unless approved in writing by a Majority in Interest of the remaining Members.

## ARTICLE 8

### Dissolution and Termination

#### 8.1 Dissolution.

(a) The Company shall be dissolved upon the first of the following to occur:

(i) Upon the election to dissolve the Company by a Majority in Interest of the Members;

(ii) Upon the death, retirement, resignation, expulsion, bankruptcy, legal incapacity or dissolution of any Member who is at such time a Manager, or the occurrence of any other event which terminates the continued membership of any Member who is at such time a Manager of the Company, unless there is at least one remaining Member and the business of the Company is continued by the consent of a Majority in Interest of the remaining Members within ninety (90) days; or

(iii) The entry of a decree of judicial dissolution under Section 6.02 of the Act.

(b) Upon dissolution of the Company, the business and affairs of the Company shall terminate, and the assets of the Company shall be liquidated under this Article VIII.

(c) Dissolution of the Company shall be effective as of the day on which the event occurs giving rise to the dissolution, but the Company shall not terminate until there has been a winding up of the Company's business and affairs, and the assets of the Company have been distributed as provided in Section 8.2. The Managers shall be responsible for overseeing the orderly winding up and dissolution of the Company unless the Managers elect to petition to have a trustee or receiver appointed for the purposes of winding up the Company.

(d) Upon dissolution of the Company, the Managers may cause any part or all of the assets of the Company to be sold in such manner as the Managers shall determine in an effort to obtain the best prices for such assets; provided, however, that the Managers may distribute assets of the Company in kind to the Members to the extent practicable.

8.2 Distribution of Assets Upon Dissolution. In settling accounts after dissolution, the assets of the Company shall be paid in the following order:

(a) First, to creditors, in the order of priority as provided by law, except those to Members of the Company on account of their Capital Contributions;

(b) Second, to establish any reserves necessary for the payment of creditors not immediately payable; and

(c) Third, any remainder shall be distributed to the Members of the Company, pro rata, in accordance with their respective Membership Interests.

8.3 Distributions in Kind. If any assets of the Company are distributed in kind, such assets shall be distributed to the Members entitled thereto as tenants-in-common in the same proportions as the Members would have been entitled to cash distributions if such property had been sold for cash and the net proceeds thereof distributed to the Members.

8.4 Articles of Dissolution. When all liabilities and obligations of the Company have been paid or discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the Company have been distributed to the Members according to their respective rights and interests, the Articles of Dissolution shall be executed on behalf of the Company by the Managers or an authorized Member and shall be filed with the Secretary of State of Texas, and the Managers and Members shall execute, acknowledge and file any and all other instruments necessary or appropriate to reflect the dissolution and termination of the Company.

## ARTICLE 9

### Miscellaneous Provisions

9.1 Notices. Any notice, demand or communication required or permitted to be given by any provision of these Regulations shall be deemed to have been sufficiently given or served for all purposes if delivered personally to the party or to an officer of the party to whom the same is directed or, if sent by registered or certified mail, postage and charges prepaid, addressed to the Member's and/or Company's address as it appears in the Company's records, as appropriate. Except as otherwise provided herein, any such notice shall be deemed to be given three business days after the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as aforesaid.

9.2 Application of Texas Law. These Regulations and the application or interpretation hereof, shall be governed exclusively by the laws of the State of Texas, and specifically the Act.

9.3 No Action for Partition. No Member shall have any right to maintain any action for partition with respect to the property of the Company.

9.4 Headings and Sections. The headings in these Regulations are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of these Regulations or any provision hereof. Unless the context requires otherwise, all references in these Regulations to Sections or Articles shall be deemed to mean and refer to Sections or Articles of these Regulations.

9.5 Amendment of Articles of Organization and Regulations. Except as otherwise expressly set forth in these Regulations, the Amended Articles of the Company and these Regulations may be amended, supplemented or restated only upon the written consent of a Majority in Interest of the Members. Upon obtaining the approval of any amendment to the Amended Articles, the Managers shall cause Articles of Amendment in accordance with the Act to be prepared, and such Articles of Amendment shall be executed by no less than one Manager and shall be filed in accordance with the Act.

9.6 Numbers and Gender. Where the context so indicates, the masculine shall include feminine and neuter, and the neuter shall include the masculine and feminine, the singular shall include the plural and any reference to a "person" shall mean a natural person or a corporation, limited liability company, association, partnership, joint venture, estate, trust or any other entity.

9.7 Binding Effect. Except as herein otherwise provided to the contrary, these Regulations shall be binding upon and inure to the benefit of the Members, their distributees, heirs, legal representatives, executors, administrators, successors and assigns.

9.8 Counterparts. These Regulations may be executed in multiple counterparts, each of which shall be deemed to be an original and shall be binding upon the Member who executed the same, but all of such counterparts shall constitute the same Regulations.



IN WITNESS WHEREOF, the undersigned, being the sole Manager of the Company, has caused these Regulations to be duly adopted by the Company effective as of \_\_\_\_\_, 2005.

HOUSING SERVICES INCORPORATED,  
a Texas non-profit corporation

By: \_\_\_\_\_  
Marty Mascari, Executive Director

The undersigned, being the sole Member of the Company, does hereby ratify, confirm and approve the adoption of these Regulations as the Regulations of the Company, and does hereby assume and agree to be bound by and to perform all of the terms and provisions set forth in these Regulations.

HOUSING SERVICES INCORPORATED,  
a Texas non-profit corporation

By: \_\_\_\_\_  
Marty Mascari, Executive Director

**TX SCYENE DEVELOPMENT, L.L.C.**

**SCHEDULE 1**

**Names, Initial Capital Contributions and  
Membership Interests of the Members**

<u>Names and Addresses of Members</u>	<u>Initial Capital Contribution</u>	<u>Membership Interest</u>
Housing Services Incorporated 2999 S. Hampton Road Dallas, Texas 75224	\$100.00	100%

**EXHIBIT C**

Assignment of the Units  
(Non Profit Owner to DHALSHC)

**HSI  
ASSIGNMENT OF MEMBERSHIP INTEREST**

This Assignment is made effective as of the \_\_\_\_ day of January, 2005, by Housing Services Incorporated ("HSI") in favor of Laureland/Scyene Holding Company, Inc., a Texas non-profit corporation ("LSHC").

**RECITALS**

WHEREAS, HSI is the sole owner of 100% of all issued and outstanding membership interests (the "Units") in TX Scyene Development, L.L.C., a Texas liability company ("TX-GP");

WHEREAS, HSI desires to transfer all of the Units to LSHC;

WHEREAS, LSHC desires to accept the assignment of such Units;

NOW THEREFORE, for \$10.00 and other good and valuable consideration:

4. HSI hereby transfers and delivers to LSHC all of the Units.

5. HSI hereby makes the following representations, warranties and covenants to LSHC:

(a) The Units have at all times comprised 100% of the issued and outstanding membership interests in TX-GP.

(b) Except for the Units, there have not been any outstanding membership interests, options, warrants, subscription rights, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, membership interests of TX-GP and there are no contracts by which TX-GP is or will or may become bound to issue additional membership interests in TX-GP or options, warrants or other rights to purchase or acquire such membership interests.

(c) HSI is the sole owner, beneficially and of record, of the Units and holds the Units free and clear of all liens and encumbrances and has not made any assignment, pledge, hypothecation or transfer of or created or permitted to exist any security interest in or other lien on the Units.

(d) TX-GP is currently governed by the Articles of Organization of TX-GP dated as of September 3, 2002 and filed with the Texas Secretary of State on September 4, 2002, as amended those certain Articles of Amendment to the Articles of Organization dated as of August 28, 2003 and filed with the Texas Secretary of State on August 29, 2003.

6. HSI shall have no further right or obligation with respect to TX-GP or the Units.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]



Housing Services Incorporated, a Texas non-profit corporation

By: \_\_\_\_\_  
Marty Mascari, Executive Director

Laureland/Scyene Holding Company, Inc., a Texas non-profit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT D**

Articles of Organization of the General Partner

**EXHIBIT E**

Social Services to be performed by SLP-C

Document comparison done by DeltaView on Monday, January 03, 2005 2:15:08 PM

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Document 2	pcdocs://orl1/626007/11
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Padding cell	

Statistics:	
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Deletions	80
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Moved to	0
Style change	0
Format changed	0
Total changes	175